

TITLE 3: HEALTH AND SANITATION AND ANIMAL REGULATIONS

DIVISION 1: ADMINISTRATION AND GENERAL REGULATIONS

Chapter 2: Nuisances.

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- 31.0210 Repealed by Ordinance 3105.
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31.021 Penalty.

Whenever a public nuisance shall be ascertained to exist on any premises, or in any house or other place, the Health Officer shall notify in writing any person or persons owning or having control of, or acting as agent for, such premises, house or other place, to abate or remove such nuisance within a reasonable time, to be stated in such notice.

Upon the neglect or refusal of any owner, occupant, or agent, or other person having control of such house or other place, to comply with such notice, such owner, occupant or agent, or other person having control shall be guilty of an infraction and each day or portion thereof such violation is in existence shall be a new and separate offense. Upon conviction, the penalty for such offense shall be a fine not exceeding fifty dollars (\$50) for a first violation, a fine not exceeding one hundred dollars (\$100) for a second violation within one year, and a fine not exceeding two hundred and fifty dollars (\$250) for a third violation within one year. The fourth and additional violations within one year shall each constitute a misdemeanor and shall be punishable by a fine of five hundred dollars (\$500.00) or six months in jail, or both. Payment of any penalty herein provided shall not relieve the defendant from the responsibility of correcting the condition of the violation. The Health Officer or the Director of Environmental Health Services may abate the nuisance; and the owner, agent or occupant or other person having control of such house or place, in addition to the penalties provided by this Code, shall be liable to the County of San Bernardino for the cost of such abatement, to be recovered in a civil action in any court of competent jurisdiction. If no person can be found upon whom to serve such notice, the Health Officer shall proceed to abate such nuisance at the expense of the County, at a cost of not to exceed twenty-five dollars (\$25) per day.

Adopted Ordinance #527 (1958); Amended Ordinance #2771 (1983);

31.022 Dead Animals.

No person shall dispose of the carcass of any dead animal in such a manner, or leave any such carcass in such a place, as to create a public or private nuisance.

Adopted Ordinance #527 (1958);

31.023 Repealed by Ordinance 3105 (1986).

31.024 Domestic Animals.

No person shall keep any animal, fowl, or bird, wild or domestic, other than cats, dogs, canaries or birds of the psittacinae family, within seventy (70) feet of any school, church, hospital, public place or business, or any residence or dwelling house or other building used for the habitation of human beings, other than his own personal and private dwelling or residence. No such animal or fowl shall be kept or maintained in any yard, coop, or building which is in a foul or unsanitary condition. The provisions of this section shall not apply to accredited laboratories regulated by the State Department of Public Health.

No person shall keep, maintain, or allow to continue upon the premises in his control or belonging to him any condition resulting in the breeding of flies, mosquitoes, gnats, or other insects or rodents.

Adopted Ordinance E1353 (1967) Amended Ordinance #2018 (1975) Amended Ordinance 2586 (1981)

31.025 Repealed by Ordinance 3105 (1986).

31.026 Repealed by Ordinance 3105 (1986).

31.027 Repealed by Ordinance 3105 (1986).

31.028 Repealed by Ordinance 3105 (1986).

31.029 Repealed by Ordinance 3105 (1986).

31.0210 Repealed by Ordinance 3105 (1986).

31.0211 Repealed by Ordinance 3105 (1986).

31.0212 Repealed by Ordinance 3105 (1986).

31.0213 Repealed by Ordinance 3105 (1986).

31.0214 Repealed by Ordinance 3105 (1986).

31. 0215 Smoking in Public Places and Places of Employment.

(a) PURPOSE AND FINDINGS. The Board of Supervisors of the County of San Bernardino hereby finds and declares:

(1) Scientific studies have concluded that cigarette smoking causes chronic lung disease, coronary heart disease, stroke, cancer of the lungs, larynx, esophagus, mouth, and bladder, and contributes to cancer of the cervix, pancreas, and kidneys; and

(2) The use of cigars is known to cause lung, larynx, esophageal, and oral cancer; and

(3) More than 440,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable illness; and

(4) The World Health Organization (WHO) estimates that by 2030, tobacco will account for 10 million deaths per year, making it the greatest cause of death worldwide; and

(5) The United States Environmental Protection Agency (EPA) has found secondhand smoke to be a risk to public health, and has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen; and

(6) Exposure to secondhand smoke is the third leading cause of preventable death in this country, killing over 52,000 non-smokers each year, including 3,000 deaths from lung cancer; and

(7) Between 4,200 and 7,440 nonsmokers die of ischemic heart disease from secondhand smoke each year in California; and

(8) Secondhand smoke exposure adversely affects fetal growth with elevated risk of low birth weight, and increased risk of Sudden Infant Death Syndrome (SIDS) in infants of mothers who smoke; and

(9) Secondhand smoke exposure causes as many as 300,000 children in the United States to suffer from lower respiratory tract infections, such as pneumonia and bronchitis, exacerbates childhood asthma, and increases the risk of acute chronic middle ear infection in children; and

(10) The total cost of smoking in California was estimated to be \$475 per resident or \$3,331 per smoker per year, for a total of nearly \$15.8 billion in smoking-related costs in 1999 alone; and

(11) Smoking-related health care costs in California in 1999 totaled \$8.6 billion, an estimated 43% of which is paid for by public sources; and

(12) Almost 90% of adult smokers started smoking at or before age 18; and

(13) It is estimated that 5.9% of youth in California smoke; and

(14) State law acknowledges the harms of secondhand smoke by prohibiting the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors; and

(15) With certain exceptions, state law prohibits smoking inside an enclosed place of employment; and

(16) State law prohibits public school students from smoking or using tobacco products while on campus, while attending school-sponsored activities, or while under the supervision or control of school district employees; and

(17) State law prohibits smoking in playgrounds and tot lots and within twenty feet of the main entrances and exits of public buildings while expressly authorizing local communities to enact additional restrictions; and

(18) It is the intent of the County Board of Supervisors in enacting the ordinance that amends this section, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of tobacco use around non-tobacco users; by protecting children from exposure to smoking and tobacco while they play; by reducing the potential for children to associate smoking and tobacco with a healthy lifestyle; by protecting the public from smoking and tobacco-related litter and pollution; and by affirming and promoting the family atmosphere of the County's public places.

(b) DEFINITIONS. For the purposes of this Section, the following definitions shall govern unless the context clearly requires otherwise:

(1) "Business" means an employer, trust, firm, joint stock company, corporation, partnership, or association and also includes a business organized for profit and a nonprofit business, but does not include a sole proprietor.

(2) "County Building" means a building owned and occupied (in whole or in part) by the County, but only that portion of a building leased and occupied by the County.

(3) "Employee" means any person who is hired by an Employer in consideration for direct or indirect monetary wages or profit; or any person who volunteers his or her services for an Employer.

(4) "Employer" means any person, partnership, corporation, association, nonprofit, volunteer or similar entity, including a municipal corporation or public entity, that employs or retains the service of one or more persons, or supervises volunteers.

(5) "Enclosed" means closed in by a full or partial roof and full or partial walls where a wall is any structure that impedes the free flow of outside air and may include a number of windows and doors.

(6) "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to hospitals, medical research and treatment sites, long-term health care facilities as defined in California Health and Safety Code section 1418, clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists and all specialists within these professions.

(7) "Place of Employment" means any enclosed place, and the premises appurtenant thereto, where employment is carried on.

(8) "Self Service Display" means the open display of Tobacco Products or Tobacco Paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer.

(9) "Smoking" means inhaling into the mouth or lungs the smoke from, or the possession of, a lighted pipe, lighted cigar, lighted cigarette of any kind, or any other lighted smoking equipment or the lighting of a pipe, cigar, cigarette of any kind, or smoking equipment, including, but not limited to, tobacco, or any other plant.

(10) "Sports Complex" means any sport pavilion, arena, stadium, gymnasium, health spa, boxing arena, swimming pool, roller or ice rink, bowling alley, or similar place specifically designed to be used for physical exercise or athletic competition.

(11) "Sports Complex Seating Area" means any spectator seating area, including outdoor athletic recreation bleachers or similar area used for the viewing of sports and athletic competition.

(12) "Tobacco Paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking or ingestion of Tobacco Products.

(13) "Tobacco Product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, or any other preparation of tobacco.

(14) "Vending Machine" means a machine, appliance, or other mechanical device operated by currency, token, debit card, or credit card that is designed or used for vending purposes, including, but not limited to, machines or devices that use remote control locking mechanisms.

(15) "Vendor Assisted Sales" means sales in which only a store or tobacco retailer Employee has access to the Tobacco Product and supplies the customer the Tobacco Product in such way that the customer does not take possession of the Tobacco Product until it is purchased.

(c) PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT, AND CERTAIN OTHER AREAS.

(1) Enclosed Places. Smoking shall be prohibited in the following Enclosed places within the County of San Bernardino, except in places listed in subsection (c)(4) below, and except in such places in which Smoking is already prohibited by state or federal law in which case the state or federal law applies:

(A) Places of Employment, including Health Care Facilities;

(B) All means of public transit under the authority of the County, while within the boundaries of the County,

(2) Unenclosed Places. Smoking shall be prohibited in the following unenclosed places within the County of San Bernardino, except in such places in which Smoking is already prohibited by state or federal law in which case the state or federal law applies:

(A) Within twenty (20) feet of a main entrance, exit, operable windows or ventilation ducts of a County Building or in a passenger vehicle owned or leased by the County;

(B) Sports Complex Seating Areas;
(C) Ticket, boarding and waiting areas of public transit depots under the authority of the County.

(3) No person shall dispose of Tobacco Product waste (including ashes) within the boundaries of an area in which Smoking is prohibited, including inside the perimeter of any entranceway, doorway, operable window or ventilation duct where Smoking is prohibited.

(4) Unless otherwise prohibited by law, Smoking is permitted in the following Enclosed places:

(A) Private residential units, except those meeting the definition of Enclosed in this section when serving as a licensed child care facility, a licensed home for the aging or a licensed home for the chronically ill;

(B) Up to twenty-five percent (25%) of hotel and motel guest rooms, if the hotel or motel permanently designates particular guest rooms as non-Smoking rooms such that seventy-five (75%) or more of its guest rooms are non-Smoking and ashtrays and matches are permanently removed from such non-Smoking rooms;

(C) Retail stores that deal exclusively in the sale of Tobacco Products and Tobacco Paraphernalia and in which minors are never permitted to enter; and

(D) County Buildings that are used as residences by out-stationed County employees.

(d) DUTY OF EMPLOYER OR BUSINESS.

(1) It shall be unlawful for any Employer or Business to fail to comply with the applicable provisions of this section.

(2) No Employer or Business owner shall knowingly permit Smoking in an area which is under the legal or de facto control of the Employer or business owner and in which Smoking is prohibited by law and the Employer and business owner is not otherwise compelled to act under state or federal law.

(3) No Employer or Business owner shall knowingly or intentionally permit the presence or placement of Tobacco Product waste or ash receptacles, such as, for example, ash trays or ash cans, within an area which is under the legal or de facto control of the Employer or business owner and in which Smoking is prohibited.

(4) Notwithstanding any other provision of this section, any Employer or business owner who controls any property, establishment, or Place of Employment regulated by this section may declare any part of such area in which smoking would otherwise be permitted to be a non-Smoking area.

(5) No Employer or prospective Employer shall discharge, refuse to hire, or in any manner retaliate against any Employee or applicant for employment because such Employee or applicant for employment exercises any rights afforded by this section.

(6) "No Smoking" or "Smoke Free" signs, with letters of no less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every Enclosed and Unenclosed place in which Smoking is prohibited by this section, by the person, Employer or Business that has legal or de facto control of such place. Notwithstanding this provision, the presence or absence of signs shall not be a defense to the violation of any other provision of this section.

(e) VENDOR ASSISTED SALES.

(1) Except for retail stores that deal exclusively in the sale of Tobacco Products and Tobacco Paraphernalia and in which minors are never permitted to enter, it shall be unlawful for any person or Business to sell, dispense, permit to be sold or offer for sale any Tobacco Product by means other than Vendor Assisted Sales, including the selling, offering for sale, dispensing and displaying of any Tobacco Product by Self Service Displays.

(2) Self Service Displays prohibited by this section in place as of the date the ordinance adopting this section is approved shall be removed not later than one year after the effective date of this ordinance.

(3) It shall be unlawful for any person, business, or tobacco retailer to locate, install, keep, maintain, use or permit the location, installation, keeping, maintenance or use of a Vending Machine for the purpose of selling or distributing any Tobacco Product or Tobacco Paraphernalia.

(f) PENALTIES AND ENFORCEMENT.

(1) Violations of this section shall be prosecuted as infractions and shall be punished by a fine of not exceeding one hundred dollars (\$100) for a first violation, two hundred dollars (\$200) for a second violation occurring within one year, and five hundred dollars (\$500) for a third or subsequent violation occurring within one year.

(2) A violation of any of the provisions of this section shall constitute a public nuisance and may be abated by the County or by an affected Employee or resident of the County through civil processes by means of a restraining order, preliminary or permanent injunction or in any other manner provided by law for the abatement of such nuisance.

(3) Enforcement of this section shall be the responsibility of the County Health Officer or his designees. Any peace officer or code enforcement official also may enforce this section.

(4) Any person who desires to register a complaint hereunder may initiate enforcement consideration with the County Health Officer or his designee.

(g) OTHER APPLICABLE LAWS OR REGULATIONS.

This section shall not be interpreted or construed to permit Smoking where it is otherwise restricted by other applicable law or regulations of property owners, managers or Employers.

Adopted Ordinance #527 (1942); Amended Ordinance 810 (1956); Amended Ordinance #845 (1957); Amended Ordinance #1353 (1967); Amended Ordinance #1686 (1971); Amended Ordinance 1701 (1972); Amended Ordinance #1879 (1973); Amended Ordinance #1989 (1975); Amended Ordinance #2018 (1975); Amended Ordinance #2771 (1983); Amended Ordinance #3105 (1986); Amended Ordinance 3128 (1987); Amended Ordinance #3932 (2004);